

CASE

NUMBER:

99-489

INDEX FOR CASE: 1999-489
GTE SOUTH, INC.
Interconnection Agreements
ADOPTION LETTER-WITH NEXTEL PARTNERS

IN THE MATTER OF 252(i) ADOPTION LETTER BETWEEN GTE SOUTH
INCORPORATED AND NEXTEL PARTNERS

SEQ NBR	ENTRY DATE	REMARKS
0001	10/12/1999	Adoption letter.
0002	12/14/1999	Final Order approving agreement.

HISTORY INDEX FOR CASE: 1999-489
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IN THE MATTER OF 252(i) ADOPTION LETTER BETWEEN GTE SOUTH
INCORPORATED AND NEXTEL PARTNERS

SEQ NBR	ENTRY DATE	REMARKS
0001	10/12/1999	Adoption letter.
0002	12/14/1999	Final Order approving agreement.
0003	01/21/2000	First Reminder to Larry D. Callison C: Honorable Donald Manning

1999-489

V-E-300

Box 52



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION
730 SCHENKEL LANE
POST OFFICE BOX 615
FRANKFORT, KENTUCKY 40602
www.psc.state.ky.us
(502) 564-3940
Fax (502) 564-3460

Ronald B. McCloud, Secretary
Public Protection and
Regulation Cabinet

Martin J. Huelsmann
Executive Director
Public Service Commission

Paul E. Patton
Governor

January 21, 2000

Mr. Larry D. Callison
State Manager-Regulatory Affairs
GTE South, Inc.
150 Rojay Dr.
Lexington, KY 40503

Re: Case No. 99-489
First Reminder Letter

Dear Mr. Callison:

The Commission entered its Final Order in this case on December 14, 1999. Among other things, the Commission ordered that Nextel Partners shall file a tariff for local service prior to providing local service giving 30 days' notice to the Commission and shall comply with all Commission regulations and orders as directed. This must be filed to fully comply with the Commission's Order. Please make this filing, referencing the case number 99-489.

If you have questions concerning this letter, please contact Howell Brady, Principal Assistant to the Executive Director at 502-564-3940, extension 265. Otherwise, please mail the required filing to Helen C. Helton, Executive Director, Public Service Commission, 730 Schenkel Lane, Post Office Box 615, Frankfort, Kentucky 40602.

Sincerely,


Stephanie Bell
Secretary to the Commission

SB/lc

C: The Honorable Donald Manning





COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION

730 SCHENKEL LANE
POST OFFICE BOX 615
FRANKFORT, KY. 40602
(502) 564-3940

CERTIFICATE OF SERVICE

RE: Case No. 1999-489
GTE SOUTH, INC.

I, Stephanie Bell, Secretary of the Public Service Commission, hereby certify that the enclosed attested copy of the Commission's Order in the above case was served upon the following by U.S. Mail on December 14, 1999.

Parties of Record:

Mr. Larry D. Callison
State Manager Regulatory Affairs
GTE Service Corporation
KY 10H072
150 Rojay Drive
Lexington, KY. 40503

Honorable Donald J. Manning
General Counsel
Nextel Partners
4500 Carillon Point
Kirkland, WA. 98033

Stephan Bell

Secretary of the Commission

SB/hv
Enclosure

consistent with the public interest, convenience, and necessity without informing Nextel Partners that it is entitled to adopt the Nextel West agreement in its entirety.

Nextel Partners must comply with all relevant Commission mandates for serving in this Commonwealth.

The Commission, having been otherwise sufficiently advised, HEREBY ORDERS that:

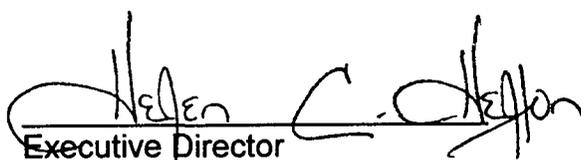
1. Subject to Nextel Partners' notification to the Commission within 10 days of the date of this Order that it desires to exercise its legal right to revoke this agreement and adopt the entire Nextel West agreement, this agreement negotiated between GTE and Nextel Partners is approved.

2. Nextel Partners shall file a tariff for local service prior to providing local service giving 30 days' notice to the Commission and shall comply with all Commission regulations and orders as directed.

Done at Frankfort, Kentucky, this 14th day of December, 1999.

By the Commission

ATTEST:


Executive Director



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION

730 SCHENKEL LANE
POST OFFICE BOX 615
FRANKFORT, KY. 40602
(502) 564-3940

December 10, 1999

Mr. Larry D. Callison
State Manager Regulatory Affairs
GTE Service Corporation
KY 10H072
150 Rojay Drive
Lexington, KY. 40503

Honorable Donald J. Manning
General Counsel
Nextel Partners
4500 Carillon Point
Kirkland, WA. 98033

RE: Case No. 1999-489
GTE SOUTH, INC.
(Interconnection Agreements) ADOPTION LETTER-WITH NEXTEL PARTNERS

This letter is to acknowledge receipt of initial application in the above case. The application was date-stamped received October 12, 1999 and has been assigned Case No. 1999-489. In all future correspondence or filings in connection with this case, please reference the above case number.

If you need further assistance, please contact my staff at 502/564-3940.

Sincerely,


Stephanie Bell
Secretary of the Commission

SB/sh

Larry D. Callison
State Manager
Regulatory Affairs & Tariffs



**GTE Service
Corporation**

KY10H072
150 Rojay Drive
Lexington, KY 40503
606 245-1389
Fax: 606 245-1721

RECEIVED

OCT 1 2 1999

PUBLIC SERVICE
COMMISSION

October 12, 1999

Ms. Helen Helton
Executive Director
Public Service Commission
730 Schenkel Lane
Post Office Box 615
Frankfort, Kentucky 40602

Case No. 99-489

RE: 252(i) Adoption Letter Between GTE South Incorporated and
Nextel Partners

Dear Ms. Helton:

Enclosed for joint filing by the parties with the Kentucky Public Service Commission (Commission) are six copies of an executed 252(i) Adoption Letter recently executed between GTE South Incorporated and Nextel Partners, adopting the terms of the arbitrated Interconnection Agreement between Nextel West Corporation and GTE South Incorporated. That agreement was approved by the Commission in Case Number 98-622.

This Adoption Letter is being provided to the Commission for its review and approval.

Please bring this filing to the attention of the Commission, and if there are any questions, please contact me at your convenience.

Yours truly,

Larry D. Callison

Enclosures

c: Mr. Donald J. Manning – General Counsel – Nextel Partners

Connie Nicholas
Assistant Vice President
Wholesale Markets-Interconnection



GTE Network
Services

HQE03B28
600 Hidden Ridge
P.O. Box 152092
Irving, TX 75038
972/718-4586
FAX 972/719-1523

RECEIVED
OCT 1 2 1999

PUBLIC SERVICE
COMMISSION

September 30, 1999

Mr. Donald J. Manning
General Counsel
Nextel Partners
4500 Carillon Point
Kirkland, WA 98033

Dear Mr. Manning:

Case No. 99-489

We have received your letter stating that, under Section 252(i) of the Telecommunications Act of 1996, you wish to adopt the terms of the Interconnection Agreement between Nextel West Corp. and GTE that was approved by the Commission as an effective agreement in the State of Kentucky in Case No. 98-622 (Terms).¹ I understand you have a copy of the Terms.

Please be advised that our position regarding the adoption of the Terms is as follows.

The provisions of the Terms that might be interpreted to require reciprocal compensation from GTE to the telecommunications carrier for the delivery of traffic to the Internet (ISP Traffic) are not available for adoption and are not a part of these 252(i) terms pursuant to FCC Rule 809 and paragraphs 1317 of the FCC's interconnection First Report and Order (FCC 96-325).

FCC Rule 809 gives the ILECs the ability to except 252(i) adoptions in those instances where the cost of providing the service to the requesting carrier is higher than that incurred to serve the initial carrier or there is a technical incompatibility issue. The issue of reciprocal compensation for traffic destined for the Internet falls within FCC Rule 809. GTE never intended for Internet traffic passing through a telecommunications carrier to be included within the definition of local traffic and the corresponding obligation of

¹ * These "agreements" are not agreements in the generally accepted understanding of that term. GTE was required to accept these agreements, which were required to reflect the then-effective FCC rules.

Mr. Manning
September 30, 1999
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reciprocal compensation. Despite the foregoing, some forums have interpreted the issue to require reciprocal compensation to be paid. This produces the situation where the cost of providing the service is not cost based under Rule 809 or paragraph 1318 of the First report and Order. As a result, that portion of the Terms that would provide reciprocal compensation or payment as local traffic for ISP Traffic is not available under this 252(i) adoption. In its place are provisions that exclude ISP Traffic from reciprocal compensation. Specifically, the definition of "Local Traffic" includes this provision: "Local Traffic excludes information service provider ("ISP") traffic (i.e., Internet, 900 - 976, etc)"

Nextel Partners' adoption of the Nextel West Corp. Terms shall become effective upon filing of this letter with the Kentucky Public Service Commission and remain in effect no longer than the date the Nextel west Corp. Terms are terminated. The Nextel West Corp. agreement is currently scheduled to expire on March 2, 2000.

As these Terms are being adopted by you pursuant to your statutory rights under section 252(i), GTE does not provide the Terms to you as either a voluntary or negotiated agreement. The filing and performance by GTE of the Terms does not in any way constitute a waiver by GTE of the Terms does not in any way constitute a waiver by GTE of any claim it may have with respect to the 252(i) process, nor does it constitute a waiver of GTE's right to seek review of any Terms that are interpreted contrary to the law.

GTE contends that certain provisions of the Terms may be void or unenforceable as a result of the United States Eighth Circuit Court of Appeals July and October, 1997 decisions, the Supreme Court of the United States' decision of January 25, 1999 and the remand of the pricing rules to the United States Eighth Circuit Court of Appeals.

Should Nextel Partners attempt to apply such conflicting provisions, GTE reserves its rights to seek appropriate legal and/or equitable relief. Should any provision of the Terms be modified, such modification would likewise automatically apply to this 252(i) adoption.

Mr. Manning
September 30, 1999
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Please indicate by your countersignature on this letter your understanding of and commitment to the following three points:

- (A) Nextel Partners adopts the Terms of the Nextel West Corp. agreement for interconnection with GTE and in applying the Terms, agrees that NPCR, Inc., a Delaware corporation ("Nextel Partners") be substituted in place of Nextel West Corp. in the Terms wherever appropriate.
- (B) Nextel Partners requests that notice to Nextel Partners as may be required under the Terms shall be provided as follows:
 - To : Nextel Partners
Attention: General Counsel
4500 Carillon Point
Kirkland, WA 98033
Telephone number: 425-828-8475
FAX number: 425-828-8098
- (C) Nextel Partners represents and warrants that it is a CMRS carrier authorized to provide service in the State of Kentucky, and that its adoption of the Terms will cover services in the State of Kentucky only.

Sincerely,

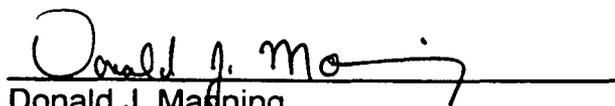
GTE South Incorporated



Connie Nicholas
Assistant Vice President
Wholesale Markets-Interconnection

Reviewed and countersigned as to points A, B, and C:

Nextel Partners



Donald J. Manning
General Counsel